

(ORAL ARGUMENT NOT YET SCHEDULED)**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

MANHATTAN COLLEGE,

Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

MANHATTAN COLLEGE ADJUNCT
FACULTY UNION AND NEW YORK STATE
UNITED TEACHERS,Intervenors

No. 18-1113

(Consolidated with 18-1158)

**PETITIONER MANHATTAN COLLEGE'S
MOTION TO GOVERN FURTHER PROCEEDINGS**

On June 26, 2018, the Court entered an order holding this case in abeyance and directing the parties to file motions to govern further proceedings within thirty days of the Court's disposition of *Duquesne University of the Holy Spirit v. NLRB*, No. 18-1063, *et al.* ("*Duquesne*"). Petitioner Manhattan College ("Manhattan") respectfully submits this motion pursuant to the Court's order.

The Court entered judgment and issued its opinion in *Duquesne* on January 28, 2020. *See Duquesne Univ. of the Holy Spirit v. NLRB*, 947 F.3d 824 (D.C. Cir. 2020). Manhattan believes that the decision in *Duquesne* fully resolves the issues presented in this case. However, since the Court's decision, two intervening events

have taken place, which make it premature for Manhattan to move for summary disposition at this time. First, on February 25, 2020, the intervenor union filed a petition for rehearing en banc in *Duquesne*. Second, on the same date respondent the National Labor Relations Board (the “Board”) filed a motion to govern further proceedings in this case, which requests that the Court continue to hold this case in abeyance pending issuance of the mandate in *Duquesne*.

In light of these developments, Manhattan agrees that it would be premature for Manhattan to move for summary disposition now. Accordingly, Manhattan agrees with the Board’s request that the Court continue to hold this case in abeyance pending issuance of the mandate in *Duquesne* and direct the parties to file additional motions to govern further proceedings within thirty days after the *Duquesne* mandate issues.¹

¹ The Court is holding one other case in abeyance pending the *Duquesne* decision, *St. Xavier Univ. v. NLRB*, D.C. Cir. No. 18-1076, *et al.* Saint Xavier is filing a similar motion to govern further proceedings in that case today.

Dated: February 27, 2020

Respectfully submitted,

/s/ Stanley J. Brown

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CERTIFICATE OF COMPLIANCE

I certify that this Motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(a) because it contains 298 words, excluding exempted matter, according to the count of Microsoft Word.

/s/ Stanley J. Brown

Stanley J. Brown

CERTIFICATE OF SERVICE

I certify that on February 27, 2020, I electronically filed the foregoing Motion with the Clerk of the Court by using the appellate NextGen electronic filing system. I certify that the participants in the case are registered NextGen users and that service will be accomplished by the appellate NextGen system.

/s/ Stanley J. Brown

Stanley J. Brown